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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MONTANA MEDICAL
ASSOCIATION, et al.,

Case No. CV 21-00108-DWM

Plaintiffs,

and

MONTANA NURSES
ASSOCIATION,

PLAINTIFFS' AND PLAINTIFF
INTERVENOR'S JOINT MOTION
FOR PRELIMINARY INJUNCTION

Plaintiff-Intervenor,

v.

AUSTEN KNUDSEN, et al.,

Defendants.

Plaintiffs and Plaintiff-Intervenor respectfully move this Court for a preliminary injunction prohibiting enforcement of House Bill 702, codified as Montana Code Annotated § 49-2-312 and § 49-2-313, against Montana's healthcare facilities subject to the Centers for Medicare and Medicaid ("CMS") Conditions of Participation in the Medicare and Medicaid programs. The facts illustrate that a preliminary injunction is appropriate in this matter as Plaintiffs and Plaintiff-Intervenor are likely to succeed on the merits that Montana Code Annotated § 49-2-312 ("MCA § 49-2-312") is both preempted by the CMS Omnibus Covid-19 Health Care Staff Vaccination Interim Final Rule ("CMS Rule") and unconstitutional; that Plaintiffs and Plaintiff-Intervenor's nurses are likely to suffer irreparable harm in the absence of preliminary relief; that the balance of equities tips in favor of a preliminary injunction; and that an injunction is in the public interest.

While Defendants initially proposed a stipulated stay of enforcement of MCA § 49-2-312 based upon the conflict between that statute and the CMS Rule, They ultimately indicated they could not consent to such a stay and that they oppose this Motion. Decl. Counsel ¶ 3, Feb. 16, 2020, Ex. B Email Corresp. btwn counsel, Feb. 2-Feb. 14, 2022.

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This Motion is supported by the Brief in Support, Declaration of Counsel, Declaration of Kirk Bodlovic, and Declaration of Vicky Byrd, filed contemporaneously herewith.

DATED this 16th day of February, 2022.

/s/ Justin K. Cole
Attorneys for Plaintiffs

/s/ Raph Graybill
Attorneys for Plaintiff-Intervenor